

**REMARKS**

Claims 75-88 were previously pending in the application. Claim 75 has been amended and claim 85 has been cancelled. Claim 75 has been amended to address the Examiner's 35 U.S.C. § 112 rejection by clarifying the claim language but, Applicants respectfully submit, not for reasons related to patentability. Claims 75-84 and 86-88 are now pending in the application. Applicants respectfully request favorable reconsideration and allowance of the application.

**I. Claim Rejection Under 35 U.S.C. §112, First Paragraph**

The Examiner rejected claim 85 under 35 U.S.C. §112, first paragraph, indicating that Applicants fails to disclose a first spacer removable mountable between the upper and lower arm; and a second spacer removable mountable between the upper and lower arms, the first spacer having a different size than the second spacer. The Examiner indicates that applicant discloses different sizes of spacers (60) being used, nowhere did applicant disclose the use of a first spacer and a second spacer together. Claim 85 has been cancelled to expedite prosecution of this application, thereby rendering this rejection moot.

**II. Claim Rejection Under 35 U.S.C. §112, Second Paragraph**

The Examiner rejected claims 75-88 under 35 U.S.C. §112, second paragraph, because the Examiner indicates the phrase, "the upper and lower parts" of claim 75 lacks prior antecedent basis. Claim 85 has been cancelled, thereby rendering the rejection of this claim moot. Applicants respectfully note that the claim term "the upper and lower parts" is supported by the earlier recitation of "an upper part" and "a lower part" in claim 75. Nevertheless, for the purposes of clarity, claim 75 has been amended to recite "the upper part and the lower part, respectively". Based on this amendment to claim 75, Applicants respectfully request reconsideration and withdrawal of the above-described rejection of claims 75-84 and 86-88.

**III. Double Patenting Rejection.**

The Examiner rejected claims 75-88 on the ground of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 7,204,852. The Examiner indicates that although the conflicting claims are not identical, they are not

patentably distinct from each other. Applicants note that claim 85 has been cancelled, thereby rendering the double patenting rejection of claim 85 moot. Applicants respectfully traverse this rejection with respect to claims 75-84 and 86-88.

Applicants submit herewith a Terminal Disclaimer to overcome the outstanding double patenting rejection. While the Terminal Disclaimer is submitted for the purposes of overcoming the outstanding rejection, it is not an indication that Applicants agree with the assertion in the Office Action that the currently pending claims are not patentably distinct from those issued in U.S. Patent No. 7,204,852.

Applicants respectfully request that the Examiner accept the Terminal Disclaimer and withdrawal of the rejection of claims 75-84 and 86-88 on the ground of double patenting, because the submission of the Terminal Disclaimer removes issues in the pending application.

#### **IV. Objection to the Drawings**

The drawings are objected to for failure to show the first and second spacers as recited in claim 85. Although not necessarily agreeing with the Examiner's objection, Applicants have cancelled claim 85, thereby rendering this rejection moot.

#### **V. Entry of Amendment After Final**

Applicants respectfully submit that the cancellation of claim 85, the above-described amendment to claim 75 and the submission of the Terminal Disclaimer are amendments cancelling claims or complying with a requirement of form expressly set forth in the present Office Action under 37 CFR § 1.116(b)(1) and, thereby, respectfully request that the Examiner enter the present Amendment After Final in response to the outstanding final Office Action.

#### **VI. Conclusion**

Applicants assert that each objection and rejection to the claims has been overcome, and no new issues have been raised by the claim amendments. Accordingly, entry of the present Amendment After Final is respectfully requested, and a notice of allowance is earnestly solicited. The Examiner is hereby authorized to contact the Undersigned at the telephone number appearing below if such would advance the prosecution of this application.

**DOCKET NO.:** SYNT-0568  
**Application No.:** 10/622,535  
**Office Action Dated:** February 6, 2009

**PATENT**

If any fees are deemed due for the filing of this or any other communication, the Commissioner is hereby authorized to withdraw such fees from Deposit Account No. 23-3050.

Respectfully submitted

Date: May 6, 2009

/Adam J. Forman/  
Adam J. Forman  
Registration No. 46,707

Woodcock Washburn LLP  
Cira Centre  
2929 Arch Street, 12th Floor  
Philadelphia, PA 19104-2891  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439